

FILED
U.S. DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-PS-

FRED GREENE, 04-A-5536,

Plaintiff,

-v-

07-CV-6368P

ORDER

DEPARTMENT OF CORRECTIONAL SERVICES,
SOUTHPORT Correctional Facility,
CAPTAIN SHEAHAN,
C.O. HELD, and DONALD SELSKY,

Defendants.

By Order dated November 27, 2007, the Court directed plaintiff to file a Second Amended Complaint in this action, and advised the plaintiff that failure to file such a Complaint on or before January 7, 2008 would result in the automatic dismissal of plaintiff's action. The Court noted that this would be the plaintiff's final opportunity to file such an Amended Complaint. Plaintiff did not file a Second Amended Complaint, and accordingly, his case was dismissed by this Court on February 8, 2008.

By letter dated March 3, 2008, plaintiff seeks reconsideration of this Court's dismissal of his case on grounds that on January 26, 2008, he sent a letter to the Court purporting to withdraw his claims against defendants Southport Correctional Facility and the New York State Department of Correctional Services. Plaintiff believes that the January 26, 2008, letter was misconstrued by the

Court, and that the Court should not have dismissed the case in its entirety.

Plaintiff's motion for reconsideration is denied. This case was dismissed by the Court on February 8, 2008, because of plaintiff's failure to Comply with the Court's Order of November 27, 2007. Even if plaintiff's letter of January 26, 2008, purporting to withdraw his claims against two defendants had been timely, it would not have satisfied the Court's Order that plaintiff file a Second Amended Complaint. Plaintiff has been given two opportunities to file an Amended Complaint, and has been given ample time to comply with the Court's Orders. Plaintiff's failure to comply with the Court's most recent Order requires that his motion for reconsideration be denied, and his case remain dismissed.

ALL OF THE ABOVE IS SO ORDERED

S/ Michael A. Telesca

MICHAEL A. TELESKA
United States District Judge

Dated: March 18, 2008
Rochester, New York